

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE: DEALER MANAGEMENT SYSTEMS
ANTITRUST LITIGATION

MDL No. 2817
Case No. 18 C 864

This Document Relates to:
Loop, LLC d/b/a AutoLoop v. CDK Global, LLC,
Case No. 1:18-cv-2521 (N.D. Ill.)

Hon. Robert M. Dow, Jr.
Magistrate Judge Jeffery T. Gilbert

**DECLARATION OF MICHAEL N. NEMELKA IN SUPPORT OF
PLAINTIFF AUTOLOOP'S OPPOSITION TO DEFENDANT CDK GLOBAL, LLC'S
MOTION TO DISMISS AUTOLOOP'S AMENDED COMPLAINT**

I, Michael N. Nemelka, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am a partner with the law firm of Kellogg, Hansen, Todd, Figel & Frederick, P.L.L.C. ("Kellogg Hansen") in Washington, D.C., which represents Vendor Class Plaintiff Loop, LLC, d/b/a AutoLoop ("AutoLoop") in the above captioned case. I respectfully submit this declaration in support of AutoLoop's Opposition to CDK Global, LLC's ("CDK") Motion to Dismiss AutoLoop's Amended Complaint ("Opposition").

2. The following facts are based on my personal knowledge or on information provided to me. If called upon as a witness, I could and would testify competently to them.

3. On May 9, 2018, CDK filed a motion to dismiss AutoLoop's complaint. *See* Dkt. 169. In doing so, CDK did not reserve any arbitration rights.

4. On May 25, 2018, CDK served AutoLoop with 72 requests for production ("RFPs"). Attached as **Exhibit A** is a true and correct copy of CDK's RFPs. In doing so, CDK did not reserve any arbitration rights.

5. On May 25, 2018, CDK served AutoLoop with 18 interrogatories. Attached as **Exhibit B** is a true and correct copy of CDK's interrogatories. In doing so, CDK did not reserve any arbitration rights.

6. On May 25, 2018, CDK sent AutoLoop a letter requesting that AutoLoop run 123 search terms over the documents of 15 custodians (nine custodians listed by name, and six by job function). Attached as **Exhibit C** is a true and correct copy of CDK's proposed search terms and custodians. In doing so, CDK did not reserve any arbitration rights.

7. AutoLoop amended its complaint on June 5, 2018.

8. On June 22, 2018, AutoLoop sent CDK responses and objections to its first set of RFPs. Attached as **Exhibit D** is a true and correct copy of AutoLoop's responses and objections to CDK's first set of RFPs.

9. On June 22, 2018, AutoLoop sent CDK responses and objections to its first set of interrogatories. Attached as **Exhibit E** is a true and correct copy of AutoLoop's responses and objections to CDK's first set of interrogatories.

10. On June 29, 2018 – after AutoLoop filed its amended complaint – CDK served AutoLoop with a second set of RFPs. Each new RFP referenced the Amended Complaint. Attached as **Exhibit F** is a true and correct copy of CDK's second set of RFPs. In doing so, CDK did not reserve any arbitration rights.

11. On June 29, 2018 – after AutoLoop filed its amended complaint – CDK also served AutoLoop with a second set of interrogatories. The additional interrogatory referenced the Amended Complaint. Attached as **Exhibit G** is a true and correct copy of CDK's second set of interrogatories. In doing so, CDK did not reserve any arbitration rights.

12. On July 30, 2018, AutoLoop served its responses and objections to CDK's second set of RFPs. Attached as **Exhibit H** is a true and correct copy of AutoLoop's responses and objections to CDK's second set of RFPs.

13. On July 30, 2018, AutoLoop served its responses and objections to CDK's second set of interrogatories. Attached as **Exhibit I** is a true and correct copy of AutoLoop's responses and objections to CDK's second set of interrogatories.

14. CDK actively negotiated with AutoLoop regarding search terms and custodians for its RFPs. Attached as **Exhibit J** is a true and correct copy of selected correspondence between

CDK and AutoLoop regarding CDK's discovery requests.

15. AutoLoop's in-house personnel have devoted substantial time and effort collecting documents in response to CDK's RFPs. AutoLoop estimates that its personnel have devoted over 50 hours to that process.

16. Kellogg Hansen has also devoted a huge amount of resources to discovery work on behalf of AutoLoop in responding to CDK's discovery demands. Just since June 1, 2018 – which is after CDK served its discovery requests – Kellogg Hansen has spent over 500 hours on behalf of AutoLoop doing discovery work. Based on a review of our firm's time records, as of the date of this declaration, Kellogg Hansen has spent that time reviewing documents for responsiveness and privilege (the activity to which the most hours have been devoted), collecting documents from AutoLoop, drafting objections and responses to CDK's discovery requests, negotiating with CDK regarding AutoLoop's discovery responses, identifying and negotiating custodians and search terms, and many other discovery matters. Just in the past two weeks, Kellogg Hansen has spent over 300 hours reviewing AutoLoop's documents for responsiveness and privilege in order to meet the October 12, 2018, deadline for document production. At the current rate of document review, Kellogg Hansen will spend many times that in the ensuing six weeks to complete the review of AutoLoop's documents.

17. On June 22, 2018, The Reynolds and Reynolds Company's ("Reynolds") served its responses and objections to Individual Plaintiffs' first set of RFPs. Attached as **Exhibit K** is a true and correct copy of Reynolds's responses and objections to Individual Plaintiffs' first set of RFPs.

18. On June 22, 2018, CDK served its responses and objections to Individual Plaintiffs' first set of RFPs. Attached as **Exhibit L** is a true and correct copy of CDK's Responses and Objections to "Individual Plaintiffs'" First Set of Requests for the Production of Documents (June 22, 2018). In doing so, CDK did not reserve any arbitration rights.

19. Attached as **Exhibit M** is a true and correct copy of the Reynolds Interface Agreement with AutoLoop (January 19, 2015).

20. Attached as **Exhibit N** is a true and correct copy of the Managed Interface Agreement between CDK and AutoLoop (January 12, 2016).

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: August 31, 2018

/s/ Michael N. Nemelka
Michael N. Nemelka